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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Thomas Short,

10 Plaintiff,

11 v.

12 David Berger, et al.,

13 Defendants.  
14

No. CV-22-00444-PHX-DJH

**ORDER**

15 Before the Court is the parties' Joint Status Report (Doc. 96). This matter was  
16 temporarily stayed on May 8, 2023 so that the administrative process could conclude  
17 "and potentially narrow or eliminate trial issues." (Doc. 84). The parties have filed  
18 several status reports since that time.

19 In these reports, Plaintiff urges the Court to retain jurisdiction over the claims in  
20 his First Amended Complaint ("FAC") (Doc. 49) in the nature of a Stay. (Doc. 92 at 6).  
21 Plaintiff asserts that certain matters are still being resolved within the U.S. Marine  
22 Corp.'s administrative processes and urges the Court to "allow the administrative process  
23 to concluded before determining what issues remain to be adjudicated." (*Id.*) Plaintiff  
24 does not specify how that administrative process relates to any of his asserted claims in  
25 his FAC. (*Id.*)

26 For its part, the Government asserts that all the claims in Plaintiff's FAC are "now  
27 moot" and "[a]ny delay in convening a Special Selection Board or deciding not to remove  
28 some information from a fitness report occurred after the amended complaint was filed


1 and are issues that are not before this Court.” (Doc. 96 at 5–6). Further, the Government  
2 notes that both of Plaintiff’s claims in his FAC “have been resolved with the rescission of  
3 the vaccine mandate.” (Doc. 94 at 3–4). It says the allegations brought by Plaintiff in his  
4 Response to the Order to Show Cause fall outside of the claims asserted in his FAC.  
5 (Doc. 96 at 5–6).

6 Given the Government’s assertions, within fourteen (14) days of this Order, the  
7 Court will permit the Government to file a Motion to Dismiss. Plaintiff’s Response must  
8 specifically include which claims in his FAC have not been rendered moot by prior  
9 Executive or Administrative order(s), and how this Court retains jurisdiction over this  
10 matter.

11 Accordingly,

12 **IT IS ORDERED** that the Government should file a Motion to Dismiss within  
13 fourteen (14) days of this Order. Plaintiff may also file a Response, and outline for the  
14 Court which claims in his First Amended Complaint have not been rendered moot, and  
15 how the Court retains jurisdiction.

16 Dated this 14th day of April, 2025.

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20 Honorable Diane J. Humetewa  
21 United States District Judge  
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